IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Kana Ram Vs. State of Rajasthan

S.B.CR. MISC. PETITION NO.1747/2007

DATE OF ORDER :: December 05, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Mahesh Thanvi,for the petitioner.

Mr.Ashok Upadhyaya, P.P. for the State.

BY THE COURT:

This criminal misc. petition under section 482 Cr.P.C. is directed against the order dt. 4.10.2007 passed by the Additional Sessions Judge No.1, Bikaner (for short `the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dt. 16.12.2006 passed by Judicial Magistrate, Nokha (for short `the trial court' hereinafter) was partly allowed. However, the petitioner feels aggrieved by the order impugned to the extent directing the auction of the wood seized by the police in the case in hand and seeks direction to release the

wood in his favour on “Supurdaginama” during the pendency of the case.

I have heard learned counsel for the parties. Carefully gone through the order of the trial court as well as of the revisional court.

Police Station, Nokha in FIR No.496 dt. 15.12.2006 seized the wood from the present petitioner alleged to have been carried in violation of section 41 and 42 of the Rajasthan Forest Act, 1953 (for short the `Act of 1953' hereinafter).

It is contended by the learned counsel for the petitioner that offence is compoundable under section 68 of the Act of 1953 which provides that the State Government may, by notification in the Official Gazzette empower a Forest Officer-
(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and
(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money or such value or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any seized shall be released and no further proceedings shall be taken against such person or property.

(3) A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees.

Learned counsel for the petitioner has placed on record the receipt bearing Book No.37, Sadar No.473 dt. 14.12.2006 by which the Forest Officer compounded the offence and received a sum of Rs.11000/- from the petitioner.

Keeping in view the provisions of section 68 of the Act of 1953 and the fact that amount of Rs.11000/- has already been received as compounding amount by the Forest Officer, in my view, the courts below fell in error in directing the property put to be auctioned. The petitioner is best person entitled to possess the wood in question during the pendency of the case.

Consequently, the criminal misc. petition is allowed. Order impugned is modified to the extent that the wood in question be

released on "Supurdaginama" in favour of the petitioner on furnishing a personal bond in the sum of Rs.10,000/- with one surety of like amount to the satisfaction of the trial court.

[H.R.PANWAR],J.

m.asif/-

S.B.Cr.Misc. Stay Petition No.1353/2007

In

S.B.Cr.Misc. Petition No.1747/2007

(Kana Ram Vs. State of Rajasthan)

Date of order : December 05, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Mahesh Thanvi, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.

Since the main petition has been allowed, stay petition stands disposed of.

(H.R.PANWAR),J.

m.asif/-